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FILED
KEN BENNETT
SECRETARY OF STATE

CHAPTER 82

SENATE BILL 1408

AN ACT

AMENDING SECTION 49-457, ARIZONA REVISED STATUTES; RELATING TO STATE AIR
POLLUTION CONTROL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 49-457, Arizona Revised Statutes, is amended to
3 read:
4 49-457. Agricultural best management practices committee:
5 members; powers; permits; definitions
6 A. A best management practices committee for regulated agricultural
7 activities is established.
8 B. The committee shall consist of:
9 1. The director of environmental quality or the director's designee.
10 2. The director of the Arizona department of agriculture or the
11 director's designee.
12 3. The dean of the college of agriculture of the university of Arizona
13 or the dean's designee.
14 4. The state director of the United States natural resources
15 conservation service or the director's designee.
16 5. One person actively engaged in the production of citrus.
17 6. One person actively engaged in the production of vegetables.
18 7. One person actively engaged in the production of cotton.
19 8. One person actively engaged in the production of alfalfa.
20 9. One person actively engaged in the production of grain.
21 10. One soil taxonomist from the university of Arizona college of
22 agriculture.
23 11. One person actively engaged in the operation of a beef cattle feed
24 lot.
25 12. One person actively engaged in the operation of a dairy.
26 13. One person actively engaged in the operation of a poultry facility.
27 14. One person actively engaged in the operation of a swine facility.
28 15. One person who is employed by a county air quality department or
29 agency.
30 C. The governor shall appoint the members designated pursuant to
31 subsection B, paragraphs 5 through 15 of this section for a term of six
32 years. Members may be reappointed. Members are not entitled to compensation
33 for their services but are entitled to receive reimbursement of expenses
34 pursuant to title 38, chapter 4, article 2.
35 D. The committee shall elect a chairman from the appointed members to
36 serve a two year term.
37 E. The committee shall meet at the call of the chairman or at the
38 request of a majority of the appointed members.
39 F. The department of environmental quality, the Arizona department of
40 agriculture and the college of agriculture of the university of Arizona shall
41 cooperate with and provide technical assistance and any necessary information
42 to the committee. The department of environmental quality shall provide the
43 necessary staff support and meeting facilities for the committee.

1 G. A person who commences a regulated agricultural activity after
2 December 31, 2000 shall comply with the general permit within eighteen months
3 of commencing the activity.

4 H. The committee shall adopt, by rule, an agricultural general permit
5 specifying best management practices for regulated agricultural activities to
6 reduce PM-10 particulate emissions. A person who is subject to an
7 agricultural general permit pursuant to this section is not subject to a
8 permit issued pursuant to section 49-426 except as provided in subsection K
9 of this section. The committee shall adopt by rule a list of best management
10 practices, at least two of which shall be used to demonstrate compliance with
11 applicable provisions of the general permit. Best management practices may
12 vary within the regulated area, according to regional or geographical
13 conditions or cropping patterns.

14 I. If the director determines that a person who is engaged in a
15 regulated activity is not in compliance with the general permit, and that
16 person has not previously been subject to a compliance order issued pursuant
17 to this section, the director may serve on the person by certified mail an
18 order requiring compliance with the general permit and notifying the person
19 of the opportunity for a hearing pursuant to title 41, chapter 6, article 10.
20 The order shall state with reasonable particularity the nature of the
21 noncompliance and shall specify that the person has a period that the
22 director determines is reasonable, but is not less than six months, to submit
23 a plan to the supervisors of the natural resource conservation district in
24 which the person engages in the regulated activity that specifies the best
25 management practices from among those adopted in rule pursuant to subsection
26 H of this section that the person will use to comply with the general permit.

27 J. If the director determines that a person who is engaged in a
28 regulated activity is not in compliance with the general permit, and that
29 person has previously submitted a plan pursuant to subsection I of this
30 section, the director may serve on the person by certified mail an order
31 requiring compliance with the general permit and notifying the person of the
32 opportunity for a hearing pursuant to title 41, chapter 6, article 10. The
33 order shall state with reasonable particularity the nature of the
34 noncompliance and shall specify that the person has a period that the
35 director determines is reasonable, but is not less than six months, to submit
36 a plan to the department that specifies the best management practices from
37 among those adopted in rule pursuant to subsection H of this section that the
38 person will use to comply with the general permit.

39 K. If a person fails to comply with the plan submitted pursuant to
40 subsection J of this section, the director may revoke the agricultural
41 general permit for that person and require that the person obtain an
42 individual permit pursuant to section 49-426. A revocation becomes effective
43 after the director has provided the person with notice and an opportunity for
44 a hearing pursuant to title 41, chapter 6, article 10.

1 L. The committee may periodically reexamine, evaluate and modify best
2 management practices. Any approved modifications shall be submitted to the
3 United States environmental protection agency as a revision to the applicable
4 implementation plan.

5 M. The committee shall develop and commence an education program. The
6 education program shall be conducted by the director or the director's
7 designee or designees.

8 N. A best management practice adopted pursuant to this section does
9 not affect any applicable requirements in an applicable implementation plan
10 or any other applicable requirements of the clean air act, including section
11 110(l) of the act (42 United States Code section 7410(l)).

12 O. For the purposes of this section, unless the context otherwise
13 requires:

14 1. "Agricultural general permit" means best management practices that:

15 (a) Reduce PM-10 particulate emissions from tillage practices and from
16 harvesting on a commercial farm.

17 (b) Reduce PM-10 particulate emissions from those areas of a
18 commercial farm that are not normally in crop production.

19 (c) Reduce PM-10 particulate emissions from those areas of a
20 commercial farm that are normally in crop production including prior to plant
21 emergence and when the land is not in crop production.

22 (d) Reduce PM-10 particulate emissions from the activities of a dairy,
23 a beef cattle feed lot, a poultry facility or a swine facility, including
24 practices relating to the following:

25 (i) Unpaved access connections.

26 (ii) Unpaved roads or feed lanes.

27 (iii) Animal waste handling and transporting.

28 (iv) Arenas, corrals and pens.

29 (e) ONLY IN THOSE REGULATED AREAS THAT ARE ESTABLISHED AFTER JUNE 1,
30 2009, AS PRESCRIBED IN PARAGRAPH 6, SUBDIVISION (c) OF THIS SUBSECTION,
31 REDUCE PM-10 PARTICULATE EMISSIONS FROM THE ACTIVITIES OF AN IRRIGATION
32 DISTRICT GOVERNED BY TITLE 48, CHAPTER 19 AND AFFECTING THOSE LANDS AND
33 FACILITIES THAT ARE UNDER THE JURISDICTION AND CONTROL OF THE DISTRICT,
34 INCLUDING PRACTICES RELATING TO THE FOLLOWING:

35 (i) UNPAVED OPERATION AND MAINTENANCE ROADS.

36 (ii) CANALS.

37 (iii) UNPAVED UTILITY ACCESS ROADS.

38 2. "Applicable implementation plan" means that term as defined in 42
39 United States Code section 7601(q).

40 3. "Best management practices" means techniques that are verified by
41 scientific research and that on a case by case basis are practical,
42 economically feasible and effective in reducing PM-10 particulate emissions
43 from a regulated agricultural activity.

44 4. "Maricopa PM-10 particulate nonattainment area" means the Phoenix
45 planning area as set forth in 40 Code of Federal Regulations section 81.303.

1 5. "Regulated agricultural activities" means:

2 (a) Commercial farming practices that may produce PM-10 particulate
3 emissions within the regulated area, including activities of a dairy, a beef
4 cattle feed lot, a poultry facility and a swine facility.

5 (b) ONLY IN THOSE REGULATED AREAS THAT ARE ESTABLISHED AFTER JUNE 1,
6 2009, AS PRESCRIBED IN PARAGRAPH 6, SUBDIVISION (c) OF THIS SUBSECTION,
7 ACTIVITIES OF AN IRRIGATION DISTRICT THAT IS GOVERNED BY TITLE 48, CHAPTER
8 19.

9 6. "Regulated area" means any of the following:

10 (a) The Maricopa PM-10 particulate nonattainment area.

11 (b) Any portion of area A that is located in a county with a
12 population of two million or more persons.

13 (c) Any other PM-10 particulate nonattainment area established in this
14 state on or after June 1, 2009.

APPROVED BY THE GOVERNOR APRIL 16, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2010.